

State of California
CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD
PUBLIC MEETING AGENDA

2520 Venture Oaks Way, Suite 300
Sacramento, CA 95833
&
100 North Barranca Street, Suite 410
West Covina, CA 91791

July 12, 2006
10:00 a.m.

ROLL CALL:

Candice A. Traeger, Chairwoman
Marcy V. Saunders, Board Member
Robert Pacheco, Board Member

MINUTES OF THE SPECIAL MEETING OF JUNE 22, 2006

MINUTES OF JUNE 28, 2006

ADMINISTRATIVE MATTERS

(Information regarding the general administration of cases pending before the Appeals Board.)

1. CALENDARING/CASELOAD

NEW BUSINESS

(The Appeals Board hears and discusses new reports presented by staff.)

OLD BUSINESS

(The Appeals Board hears and/or discusses matters on a follow-up basis.)

1. 2006 LEGISLATION
(Review and discuss legislation introduced that impacts the Appeals Board.)
2. 2005/06 BUDGET
(Review and discuss budget issues for this fiscal year.)
3. 2006/07 BUDGET

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(Review and discuss budget issues for this fiscal year.)

CHAIRWOMAN'S REPORT

(Hear report from the Chair on issues affecting the Appeals Board.)

BOARD MEMBERS' REPORTS

(Hear reports from Board Members on issues affecting the Appeals Board.)

EXECUTIVE OFFICER'S REPORT

(Report regarding administrative matters and news from the Department and Appeals Board.)

STAFF REPORTS

(Reports from the Presiding ALJs and the Chief Counsel regarding matters from the Hearing Operations and Legal Units.)

Any matter not completed at this meeting may be continued to subsequent meetings.

PUBLIC COMMENT

(Public comment will be entertained during the discussion of each agenda item of the Open Meeting.)

APPEALS

(Report of statistics regarding appeals docketed by the Appeals Board for the current month, previous months, and previous four years.)

Intents to Appeal in June 2006	_____
Total Intents to Appeal to Date	_____
Appeals Docketed in June 2006	_____
Total Appeals Docketed to Date	_____
Appeals Packets Completed in June 2006	_____
Total Appeals Packets Completed to Date	_____

	2001	2002	2003	2004	2005	2006
January	387	586	482	357	422	405
February	302	420	405	421	435	320
March	421	320	470	513	400	506

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April	372	559	526	416	406	259
May	612	589	359	325	187	592
June	421	384	446	486	517	
July	410	511	367	320	372	
August	549	426	345	386	345	
September	350	374	448	269	380	
October	482	438	435	425	346	
November	507	368	331	332	326	
December	447	389	621	509	442	
TOTAL	5255	5367	5235	4762	4651	

Recess to Closed Session to discuss matters pursuant to Government Code § 11126 (a), (c) (3), and (e) and Labor Code sections 6609 and 6620.

The next Public Meeting/Closed Session is scheduled
Wednesday, July 26, 2006
Cal/ OSHA Appeals Board
2520 Venture Oaks Way, Suite 300
Sacramento, CA 95833
&
100 North Barranca Street, Suite 410
West Covina, CA 91791

NOTICE TO PARTIES: Disability accommodation is available upon request. Any person with a disability requiring an accommodation, auxiliary aid or service, or a modification of policies or procedures to ensure effective communication and access to the programs of the Division of Occupational Safety and Health, should contact the Disability Accommodation Coordinator at the local district Office or the state-wide Disability Accommodation Coordinator at 1-866-326-1616 (toll free). The state-wide Coordinator can also be reached through the California Relay Service, by dialing 711 or 1-800-735-2929 (TTY) or 1-800-855-3000 (TTY-Spanish).

Accommodations can include modifications of policies or procedures or provision of auxiliary aids or services. Accommodations include, but are not limited to, an Assistive Listening System (ALS), a Computer-Aided Transcription System or Communication Access Realtime Translation (CART), a sign-language interpreter, documents in Braille, large print or on computer disk, and audio cassette recording. Accommodation requests should be made as soon as possible. Requests for an ALS or CART should be made no later than five (5) days before the hearing.

**For Further Information
Contact**

Janet M. Eagan
2520 Venture Oaks Way, Suite 300
Sacramento, CA 95833
(916) 274-5751

oshappeals@dir.ca.gov

<http://www.dir.ca.gov/oshappeals/>

State of California

CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD

CLOSED SESSION AGENDA
Government Code § 11126 (a), (c)(3), and (e)
For

Wednesday, July 12, 2006

10:00 a.m.

Sacramento, California
&
West Covina, California

TO: Members of the California Occupational Safety and Health Appeals Board

FROM: J. Jeffrey Mojcher, Chief Counsel

DATE: June 30, 2006

RE: Closed Session of the Board on July 12, 2006

Pursuant to Government Code section 11126, subdivisions (a), (c)(3), and (e) and the Labor Code sections 6609 and 6620, the Appeals Board will hear the following items in Closed Session.

DECISIONS OF ADMINISTRATIVE LAW JUDGES:

(Written decision issued by an Administrative Law Judge. The decision summarizes the evidence received from the Division of Occupational Safety & Health and the Employer, makes findings of fact for all issues involved in the appeal and gives reasons and grounds for the decision. The Board Members review the decision and decide if they will reconsider the ALJ decision on their own motion.)

1. ALL AMERICAN PETROLEUM CORP., 03-R3D1-4729
2. AMAGON ENTERPRISES dba TIRES UNLIMITED, 04-R1D2-0073
3. BEE CONSTRUCTION, 04-R4D1-238 AND 239
4. DOUGLAS E. BARNHART, INC., 03-R3D1-4330
5. HADLEY DATE GARDENS, INC., 03-R6D2-2359
6. THRIFTY PAYLESS, INC., dba RITE AID PHARMACY #5545, 03-R3D2-1976 AND 1977

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ORDERS OF ADMINISTRATIVE LAW JUDGES:

(Written order issued by an Administrative Law Judge after a pre-hearing conference in which the Division of Occupational Safety & Health and the Employer agree to settle an appeal without a hearing. The Board Members review the order and decide if they will reconsider or remand the issued order.)

1. ABC WINDOW COMPANY, INC., 05-R3D2-3132
2. AADAMS TREE SERVICE, INC., 05-R2D3-3425
3. ABHAY GOKANI INC., 05-R4D1-4286
4. ACADEMY MECHANICAL, INC., 05-R4D4-4345
5. ADELPHIA COMMUNICATIONS, 05-R3D5-3753 AND 3754
6. ADVANCED TIRE SERVICES, 05-R2D1-3424
7. AIRCON ENERGY, 05-R2D1-3264
8. AMERICAN METALS, 05-R2D1-3590 AND 3591
9. AMERICAN RIVER CAULKING, 05-R2D1-3851 AND 3852
10. AUSTAER CORP., 05-R2D1-4240
11. BACCI INC., 05-R4D1-3560
12. BAKE MARK, 05-R4D4-2447 AND 2448
13. BAKE MARK INGREDIENTS (WEST), 05-R4D4-2449
14. BERK & RAWSON DRYWALL, INC., 05-R2D3-3290
15. BROUILLETTE CONSTRUCTION INC., dba BCI, 05-R2D3-4385 AND 4386
16. BROWNS CO CONSTRUCTION, 05-R4D4-4461 AND 4462
17. CRT COLOR PRINTING INC., 05-R4D4-395 THROUGH 398
18. CALIFORNIA, STATE OF, METROPOLITAN STATE HOSPITAL, 05-R4D2-4290
19. CALIFORNIA TRUCK SCHOOL dba WESTERN TRUCK SCHOOL, 06-R2D1-0019

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20. CALPINE POWER SERVICES, 05-R4D2-4571
21. EDWARD P. CHARLES, 05-R4D2-1191 AND 1192
22. CHART HOUSE, 06-R4D1-1211 AND 1212
23. CLONTECH LABORATORIES, INC., 05-R1D2-4216 AND 4217
24. COIT COMPANY, 05-R4D2-1982 THROUGH 1984
25. COLOR GRAPHICS – MADISON GRAHAM, 05-R4D2-1985 THROUGH 1988
26. CUSTOM ALLOY LIGHT METALS, INC., 06-R3D7-1451 THROUGH 1453
27. D.C. CORPORATION, 05-R4D4-2259
28. D J D O, CORP. dba WESTERN PAINTING, 05-R1D1-4349
29. D & T RECYCLING, 05-R4D4-4207 THROUGH 4209
30. DAVIS ENTERPRISE, INC., 05-R2D1-1871 THROUGH 1875
31. DAY-LEE FOODS, 05-R6D2-2031 THROUGH 2041
32. DENNIS BLAZONA CONSTRUCTION, INC., 06-R2D1-0020 THROUGH 0022
33. DIABLO VALLEY COLLEGE, 05-R2D2-4243
34. DIETRICH METAL FRAMING, 06-R2D4-0032
35. DILBECK & SONS, INC., 05-R1D2-3581 AND 3582
36. DOTY BROTHERS CONSTRUCTION CO., 05-R4D2-1186 AND 1187
37. ELECTRO TECH MACHINING, 05-R3D5-3332 AND 3333
38. ELWIN R. MANN, INC., 05-R1D2-4515
39. EXTENDED STAY HOTELS dba EXTENDED STAY AMERICA, 05-R2D1-4067 AND 4068
40. FIRST IMPRESSION SIGN COMPANY, 05-R2D3-4080 AND 4081
41. FORGED METALS, INC., 05-R3D3-4263 AND 4264

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42. FRITO LAY NORTH AMERICAN, 05-R2D1-3922
43. FROST/CHADDOCK DEVELOPERS, LLC, 05-R4D1-3339
44. G & E DRYWALL COMPANY, 05-R3D1-986 AND 987
45. G BROTHERS CONSTRUCTION, INC., 05-R3D1-3616
46. G.R. GRADING & EXCAVATION, INC., 05-R2D1-3918
47. YVONNE GOFF, DDS, 05-R4D1-2422 THROUGH 2424
48. GOLDEN MARK ENTERPRISES INC., dba FOAM DEPOT, 05-R4D4-4467 AND 4468
49. GRIFFITH COMPANY, INC., 05-R4D3-923
50. ROBERT L. HALL dba A.B.S. HEATING & AIR CONDITIONING, 05-R1D2-3587
51. HANFORD READY MIX, INC., 05-R2D1-4361
52. HAPPY DAZE RV'S, 05-R2D1-4334 THROUGH 4336
53. HARMON & SONS TIRE CENTER, INC., II, 05-R4D1-3683 THROUGH 3685
54. HERMAN WEISSKER, INC., 05-R3D3-992
55. HOMEWOOD BUILDING SUPPLY, INC./HOMEWOOD LUMBER, 05-R2D1-3589
56. INDUSTRIAL FORKLIFTS, INC., 05-R4D2- 1188 THROUGH 1190
57. J.R. PIERCE PLUMBING CO., IN.C, 05-R2D2-3923
58. J Y CONSTRUCTION, 05-R4D1-2992
59. JEFF'S CRANE SERVICE, 05-R6D2-1831 THROUGH 1832
60. JENSEN PRECAST CORP., 05-R3D3-1002
61. JOHN STUART MECHANICAL, INC., 05-R2D3-3924 AND 3925
62. JOSCO CONSTRUCTION, INC., 05-R2D5-3427
63. KIEWIT PACIFIC CO., 05-R5D2-4471 THORUGH 4472

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64. KRAFT FOODS, 05-R3D1-2094
65. LA COUNTY USC HOSPITAL, 05-R4D2-3507 AND 3508
66. LDT AG ENTERPRISES, INC., 05-R2D1-4077 AND 4078
67. DANNY LEE dba LEE'S FAMILY CATERING, 05-R4D1-2126
68. LINCOLN PRODUCTS, 05-R4D4-2355 AND 2356
69. LOS ANGELES COUNTY DEPARTMENT OF PUBLIC SOCIAL SERVICES, 05-R4D2-3445
70. M. R. FASHION, 05-R3D1-4411 AND 4412
71. MAXIM CRANE WORKS, 05-R2D1-3274
72. McDONALD'S #4734, 05-R4D1-1516 AND 1517
73. MERIT PRINTING INKS, 05-R4D2-2434 THROUGH 2437
74. MET A LUM FABRICATORS, 05-R6D2-2731 THROUGH 2739
75. MISSION CITY FUMIGATION, 06-R4D3-1463
76. MOLINA'S ENGINEERING, 05-R4D3-2552
77. MONARCH CONSULTING dba PES PAYROLL, 05-R4D2-3004
78. DAN MORGAN, 05-R2D3-3289
79. NATIONWIDE, 05-R3D1-4404 THROUGH 4406
80. NEAL FEAY COMPANY, INC., 05-R6D2-3228 THROUGH 3232
81. NEVARES FARM L.C., 05-R1D2-4511
82. NUNEZ PLUMBING, 05-R4D2-3635 AND 3636
83. PACIFIC CLINICS – APFC, 05-R4D4-3778
84. PACIFIC INTERLOCK PAVINGSTONE, INC., 05-R1D2-4218 THROUGH 4222

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85. PAN CONSTRUCTION, INC., 05-R4D4-3031 THROUGH 3033
86. PASCHALL MECHANICAL, INC., 05-R3D2-3133 THROUGH 3155
87. PETERSENDEAN ROOFING, INC., 05-R1D2-4352
88. PRECISION CONTRACTING, INC., 05-R3D1-3941
89. RON HALE CONSTRUCTION, INC., 05-R2D3-4250
90. ROYAL COACHES AUTO BODY AND TOWING, 05-R4D4-4160 AND 4161
91. S & B GRAPHICS INC., dba COPY CO PRINTING, 05-R4D1-4429
92. SC ASSOCIATES, 06-R3D1-798 THROUGH 801
93. SMA BUILDERS, 05-R4D1-2125
94. SALINAS UNION HIGH SCHOOL DISTRICT – LA PAZ MIDDLE SCHOOL, 05-R1D2-4512
95. JOHNATHON H. SALISBURY, PARTNER, SALISBURY & SON CONTRACTING, 05-R2D3-3592 AND 3593
96. SEMI TROPIC WATER STORAGE DISTRICT, 05-R4D3-2254 AND 2255
97. SENSIENT DEHYDRATED FLAVORS, CO., 05-R1D2-4225 AND 4226
98. SERENITY HOMES, 05-R2D3-3932 THROUGH 3934
99. SOUTHERN CALIFORNIA EDISON, 05-R4D4-146
100. SOUTH WHITTIER SCHOOL DISTRICT, 05-R4D4-2559
101. STAFFMARK INVESTMENTS, LLC, 06-R2D4-0033
102. STANISLAWSKI & CO., 05-R4D2-3356
103. SUGAR FOODS CORPORATION, 05-R4D2-114 THROUGH 118
104. SUN AIR JETS, L.L.C., 05-R4D2-2708
105. SUNSET WEST FRAMING, 05-R3D2-2104

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- 106.TABC, INC., 06-R3D5-1444 THROUGH 1445
- 107.THE MACHADO ENVIRONMENTAL dba AIR DUCT CLEANING CO., 05- R4D1-3680 THROUGH 3682
- 108.TOM TELLIARD FOODS, 05-R3D7-1955 AND 1956
- 109.TOTTEN TUBES, INC., 05-R4D4-924 AND 925
- 110.UNIBRIGHT FOODS, INC., 05-R4D2-1968 THROUGH 1971
- 111.U.S. PIPE & FOUNDRY, 05-R1D4-2196 AND 2197
- 112.VERIZON COMMUNICATIONS, 05-R4D4-4469
- 113.W.B.E. THE ELECTRIC CO., 06-R1D4-0006
- 114.WDHI INC., 05-R4D1-2993
- 115.WEBER DISTRIBUTION, 05-R3D3-222 AND 223
- 116.WEST COAST FOUNDRY, 05-R4D2-1977 THROUGH 1981
- 117.WESTEC INDUSTRIES, INC., 05-R2D1-3263
- 118.WESTERN DIGITAL CORP., 05-R1D4-4227
- 119.WESTERN FARM SERVICE, INC., 05-R1D2-3906 AND 3907
- 120.WESTERN SUN PRODUCTS, INC., 04-R6D2-3784 THROUGH 3788
- 121.WOODY DOUGLAS GUNITE COMPANY, 05-R3D3-2821 AND 2822
- 122.YELLOW TRANSPORTATION, 04-R4D4-2788 AND 2789

ORDERS DISMISSING APPEALS:

(Written order issued by an Administrative Law Judge disposing of an Employer appeal.)

- 1. PIPE JACKING UNLIMITED, INC., 03-R5D2-5100

PETITIONS FOR RECONSIDERATION:

(The Division of Occupational Safety & Health and the Employer each has the right to petition the

Appeals Board to reconsider a decision or order of an Administrative Law Judge. The Appeals Board must decide to grant or deny each petition.)

NONE.

DENIALS OF PETITIONS FOR RECONSIDERATION (DRAFTS):

1. GHILOTTI BROTHERS CONTRACTORS, INC., 03-R1D5-2051

DECISIONS AFTER RECONSIDERATION (DRAFTS):

(If the Appeals Board grants a petition for reconsideration it reviews the facts of the appeal and then issues a decision after reconsideration upholding, reversing or modifying the underlying ALJ decision.)

1. BILL CALLAWAY & GREG LAY dba WILLIAMS REDI MIX, 03-R2D1-2400
ACTION: Returned from June 28, 2006 Closed Session for further review. Discussion and Vote on Decision After Reconsideration Draft.
2. AC FRAMERS INC., 03-R2D3-3475
3. A & C LANDSCAPING, INC., aka A & C CONSTRUCTION, INC., 03-R4D4-4791
4. BAY AREA SYSTEMS & SOLUTIONS, dba BASS ELECTRIC, 01-R1D3-106
5. BLUE DIAMOND MATERIALS, 02-R5D2-1268
6. BRYDENSOT METAL PRODUCTS, 03-R3D3-3554 AND 3555
7. CALDWELL-ROLAND ROOFING, INC., 03-R1D4-2905
8. CALIFORNIA FAMILY FITNESS, 03-R2D1-095 & 096
9. CITY OF LOS ANGELES FIRE DEPARTMENT, 03-R2D5-3960
10. COX COMMUNICATIONS, 03-R3D2-1942
11. DAVIS BROTHERS FRAMING, INC., 03-R3D1-0114
12. E. L. YEAGER CONSTRUCTION COMPANY, INC., 01-R5D3-3261
13. ETTER & SON CONSTRUCTION, INC., 03-R1D5-3130 & 3131
14. GLASS PAK, 03-R2D2-0750 AND 0751

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15. HARRIS CONSTRUCTION COMPANY, INC., 03-R2D5-3914
16. HEARN CONSTRUCTION, INC., 02-R6D1-3533 THROUGH 3536
17. HENSEL PHELPS CONSTRUCTION, 01-R2D1-1618 & 1619
18. HUSSMAN CORPORATION, 03-R3D1-2939
19. ILH CONSTRUCTION, 02-R1D1-4171 & 4172
20. IMPERIAL HIGHWAY CHEVRON, 03-R4D2-2778 THROUGH 2780
21. J. F. SHEA CONSTRUCTION, INC., 02-R5D3-801
22. K. A. BINE CONSTRUCTION, 03-R1D5-2031
23. KENNY-SHEA-TRAYLOR-FRONTIER/KEMPER, JV, 03-R5D2-0323
24. KIMES-MORRIS CONSTRUCTION, 02-R1D4-1204 THROUGH 1209 & 02-1273
25. KNOTT'S BERRY FARM, 01-R3D1-4331 & 4332
26. LONG BEACH CITY COLLEGE, 03-R3D5-2747
27. LOS ANGELES, CITY OF, FIRE DEPARTMENT, 03-R2D5-3960
28. LOWPENSKY MOULDING, 03-R1D1-3405
29. MCI WORLDCOM INC., 00-R1D1-440 THROUGH 442
30. McDONALDS #10660, 03-R1D3-4116 & 4117
31. NIBBLELINK MASONRY CONSTRUCTION, 02-R3D3-1399 THROUGH 1401
32. NORTH FORK SPRINGS CONSTRUCTION, 02-R4D1-199 THROUGH 202
33. PMR RACE CARS, 03-R3D3-1824 & 1825
34. POUK & STEINLE, INC., 03-R4D2-1495 & 1496
35. RII PLASTERING INC., 02-R3D1-2679
36. SACRAMENTO MUNICIPAL UTILITY DISTRICT, 02-R2D1-1654 THROUGH 1656

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37. SILVERCREST WESTERN HOMES, CORP., 03-R2D1-4305
38. STILES PAINT MANUFACTURING, 02-R1D4-1630
39. STRUCTURAL SHOTCRETE SYSTEM, 03-R4D3-986
40. SUN VALLEY SKYLIGHTS, INC., 03-R4D1-2613 & 2614
41. TRIO METAL, 03-R4D4-0316 & 0317
42. UNITED AIRLINES, 00-R1D5-2844
43. WAREHOUSE DEMO SERVICES, 03-R1D4-3427
44. WEST VALLEY CONSTRUCTION COMPANY, INC., 01-R1D2-3017 & 3018

PENDING LITIGATION

(If the Division of Occupational Safety & Health or the Employer disagrees with a decision after reconsideration or a denial of a petition for reconsideration, either one or both parties may apply to the California Superior Court for a writ of mandate. The Appeals Board receives legal advice from its Legal Unit and provides policy direction regarding pending litigation.)

SUPERIOR COURT:

1. HFS INVESTMENTS, INC., 01CS00981 (96-3079)
2. TUTOR-SALIBA-PERINI (03CS803), 03CS00202 (97-3209/12)
3. SUNRISE WINDOW CLEANERS, INC., 03CS00300 (00-3220/21)
4. TEICHERT AGGREGATES, 03CS00659 (01-1193)
5. HARBOR SAND & GRAVEL, INC., 03CS00974 (01-1016)
6. LUIS E AVILA (E & L AVILA LABOR), ECU01582 (00-4067)
7. ARB, INC., 03CS01454 (01-2119)
8. MOUNTAIN CASCADE, 03CS01655 (01-3561)
9. RUDOLPH & SLETTEN, 04CS00540 (01-478)
10. PACIFIC RESOURCE RECOVERY, 04CS00695 (00-1108)

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11. MATAROZZI-PELSINGER BUILDERS, 04CS01204 (01-1400)
12. BLF FRAMING, INC., 04CS01618 (02-1837/38)
13. DESILVA GATES CONSTRUCTION, 05CS00008 (01-2742)

APPELLATE COURT

1. BRAGG CRANE, (LA) B182094 (BS091587) 01-2428
2. TEICHERT CONSTRUCTION, C050709(02CS00517) 98-2512
3. C. OVERAA & CO., CO51245 (04CS00570) 01-3560
4. THE HERRICK CORP., CO51506 (01CS00438) 97-1373

OTHER LEGAL MATTERS

(Any legal matter that comes about after the agenda is noticed 10 days in advance of the meeting announcement and that must be acted upon or legal matters pending before the Board requiring specific Board action but do not fall within the above categories.)

PERSONNEL *(Issues regarding staff.)*

Any matter not completed at this Closed Session may be continued to subsequent meetings.